

REMARKS

The following remarks, taken together with the claim amendments listed herein, are provided in response to the Office Action communication dated February 3, 2010, wherein the shortened statutory period for response expired on May 3, 2010. Accordingly, Applicant petitions herewith for a one-month extension of time.

Upon receipt of the present Office Action, Applicant's claims 15-17, 19-22 and 57 were pending in the subject application. Claims 15-17, 19-22 and 57 currently stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

In view of the foregoing, Applicant submits the following remarks wherein the Examiner's rejection is respectfully traversed.

Rejection of Claims under 35 U.S.C. § 112

Claims 15-17, 19-22 and 57 currently stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

On page 3 of the present Office Action, Applicant was invited to contact the Examiner to resolve the foregoing rejection as, upon resolution, the Examiner indicated that the claims are otherwise in condition for allowance. Applicant made multiple attempts to contact the Examiner on April 15, 2010 (via telephone), April 16, 2010 (via e-mail) and April 23 (via telephone and voicemail). Unfortunately, Applicant has been unsuccessful in these attempts to contact the Examiner in order to discuss proposals for resolving the aforementioned rejection.

Without conceding the propriety of the rejection, and solely to advance prosecution of the claimed invention, Applicant has proposed further amending the relevant claims, as reflected under the heading "Listing of Claims" beginning on page 2 of this paper, to more clearly recite the steps being performed by the claimed invention.

Applicant also submits that independent claim 57 is presented as a Beauregard claim, which is clear from the preamble language of the claim. There is no mention of a "computer system" in the steps recited in the corresponding limitations of claim 57. Accordingly, the

foregoing rejection of claim 57 under 35 U.S.C. §112, second paragraph, is improper and without standing.

In view of the foregoing amendment and remarks, Applicant submits that these claims are in compliance with the requirements prescribed under 35 U.S.C. §112, second paragraph. Accordingly, Applicant respectfully requests that the rejection of claims 15-17, 19-22 and 57 under 35 U.S.C. §112, second paragraph, be withdrawn and that the application be permitted to proceed to allowance.

Examiner Misstatements & Request for Reconsideration of Applicant's Election

On page 2 of the present Office Action, the Examiner states that "*Applicant's election without traverse of Group II in the reply filed 11/16/2009 is acknowledged.*"

Applicant respectfully submits that the foregoing statement is not an accurate representation of the election and corresponding remarks provided in the reply filed on November 16, 2009 and, as such, requests that the Examiner acknowledge the following statements to correct the prosecution record.

(1) Applicant **elected Group I** (i.e., claims 15-17, 19-22 and 57), not Group II (i.e., claims 25-27, 29-32 and 58), for further examination on the merits; and

(2) Applicant's election of Group I was made **with traverse**

Applicant further submits, as previously asserted in the reply filed November 16, 2009, that the aforementioned restricted groups of pending claims have both undergone substantive examination. As such, there is no burden on the Examiner in continuing examination of both groups of claims as previously presented. Moreover, independent claims I and 57 (classified under Group I) and independent claims 25 and 58 (classified under Group II) are directed at analogous subject matter and have limitations that are substantially the same, respectively, in scope.

In view of the foregoing, Applicant kindly requests that the Examiner reconsider the election and corresponding remarks made in the reply filed on November 16, 2009.

Conclusion

For at least the reasons set forth above, this patent application, as amended, is now in condition for allowance. Reconsideration and prompt allowance of this patent application are respectfully requested.

If it will advance the prosecution of this patent application, the Examiner is urged to telephone (973.597.6326) Applicant's undersigned representative. All written communications should continue to be sent to the address provided below

Respectfully submitted,

Lowenstein Sandler PC
65 Livingston Avenue
Roseland, NJ 07068

Dated: May 26, 2010

By: s/David Toma/

David Toma, Esq.
Attorney for Applicant
Reg. No. 57,380